

APPEAL NO. 032692
FILED DECEMBER 3, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on September 8, 2003. The hearing officer determined that: (1) the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the fourth quarter; (2) the appellant (carrier) is not relieved of liability for the fourth quarter SIBs, under Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § Rule 130.105 (Rule 130.105), because the claimant timely filed his fourth quarter application for SIBs; (3) the carrier waived its right to contest the claimant's entitlement to fourth quarter SIBs by failing to timely request a benefit review conference (BRC); and (4) the claimant is not entitled to SIBs for the fifth quarter. The carrier appealed the hearing officer's fourth quarter SIBs determinations on sufficiency of the evidence grounds. The appeal file does not contain a response from the claimant. The hearing officer's fifth quarter SIBs determination was not appealed and has become final. Section 410.169.

DECISION

Affirmed.

The hearing officer did not err making the complained-of determinations. Section 408.147(b) provides, in pertinent part, "if an insurance carrier fails to make a request for a [BRC]...within 10 days after receipt of the employee's [Application for SIBs (TWCC-52)], the insurance carrier waives the right to contest entitlement to [SIBs] and the amount of [SIBs] for that period...." See *also* Rule 130.108(d), regarding subsequent quarters with prior payment. It is undisputed that the carrier paid SIBs for the prior quarters. Additionally, the parties stipulated that the carrier received the claimant's application for fourth quarter SIBs on March 31, 2003, and disputed entitlement by requesting a BRC on May 22, 2003. Accordingly, the hearing officer properly concluded that the carrier waived its right to contest the claimant's entitlement to fourth quarter SIBs; the carrier is not relieved of liability for the fourth quarter SIBs under Rule 130.105; and that the claimant is entitled to fourth quarter SIBs.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **ACIG INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**WILLIAM S. MCINTYRE IV
12222 MERIT DRIVE, SUITE 1660
DALLAS, TEXAS 75251-3212.**

Edward Vilano
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Margaret L. Turner
Appeals Judge